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BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

Special Services Fees and Classifications

Docket No. MC96-3

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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

REPLY BRIEF OF
THE NEWSPAPER ASSOCIATION OF AMERICA
(January 21, 1997)

The Newspaper Association of America ("NAA") hereby submits its reply brief in this proceeding. NAA takes no position on the fee changes proposed in this proceeding; NAA submits this reply only to respond to certain points made in the brief of the Postal Service regarding the attribution of city carrier access costs.¹

In its Initial Brief, the Postal Service asserts that there is "no evidentiary foundation for use of the Commission [single subclass stop] methodology in this docket."² The USPS further charges that the Commission "has not presented a witness to sponsor, explain and defend its costing methodology," further contending that various witnesses in this proceeding have not independently verified the Commission staff's calculation of attributable costs, which have been placed in library references.³ The USPS concludes that "no witness in this proceeding has explained the Commission's costing methodology on the record" and that the USPS has been

¹ See *Initial Brief of the United States Postal Service* at 33-40 (Jan. 14, 1997).

² *Id.* at 33.

³ *Id.* at 34.



denied a scrutiny on the record of the Commission's model, thus working a denial of due process.⁴

The Postal Service's objections are wholly without merit. The Commission's single subclass stop methodology for attributing access costs is sound precedent, is based on record testimony (to a significant degree on the testimony of the USPS's own witnesses) in prior proceedings, and the USPS has not been denied due process. There is certainly no legal basis for a requirement that the Commission sponsor a witness in order to apply the current cost attribution methodology.

First, there is no requirement that a witness sponsor every cost methodology in every proceeding. It is sufficient that a particular costing methodology has been approved in the past, and thus has the status of precedent. Indeed, the USPS itself relies in this case on a number of costing methodologies that are neither sponsored by any witness nor included in library reference. If the Postal Service's logic were correct, there would be no record basis to support the cost attribution methodology *underlying its own* case.

Second, the Commission's single subclass stop methodology is established precedent. It was fully considered and approved in several past proceedings. The Postal Service's contention that the Commission -- or any other party -- labors under some "due process" obligation repeatedly to "explain and defend," in seemingly every case, the single subclass methodology "on the record" simply ignores that such full hearings have, in fact, been held, and in those proceedings contained a more than ample record basis for the Commission's decision.

⁴ *Id.* at 36.

In particular, the Commission adopted its current single subclass stop method of access cost attribution in its remand decision in Docket No. R90-1,⁵ and reaffirmed that approach in both of its opinions in Docket No. R94-1. All three decisions were fully supported by substantial evidence on the record before the Commission, including the direct and cross-examination testimony of the Postal Service's own witnesses.⁶ Thus, the Commission's acceptance of single subclass stops as the basic principled methodology for access costs is well-established and cemented in record evidence.

The Postal Service seems to contend, however, that the Commission cannot so much as even correct a small technical error in its application of the single subclass principle without triggering a due process obligation to sponsor a witness to explain the change.⁷ This is unsupported by any principle of law or sound administrative practice. That the Commission

⁵ *Opinion and Recommended Decision on Remand*, Docket No. R90-1 (Sept. 27, 1994).

⁶ These include the testimony of Professors Baumol and Panzar, whose testimony was endorsed by the Governors themselves. *See, e.g.*, Docket No. R90-1 Remand Tr. 3/1005-06 (Baumol); Tr. 2/771 (Panzar). It is also based on the economic principles of the Commission witness Sowell in the Docket No. R90-1 remand proceeding. For example, Professor Baumol testified: "if the sole purpose of the attributable cost calculation is to test for and prevent cross subsidy, then the unambiguous implication is that this must be measured by incremental cost." Tr. 3/1016. As it is well-established that the purpose of the attributable cost calculation is precisely "to test for and prevent cross subsidy," then Professor Baumol's testimony supports the full attribution of the costs of single subclass stops.

⁷ Thus, this proceeding has witnessed the spectacle of the Postal Service striving mightily to portray trivial differences between the precise mechanics of the Commission's calculation of access cost attribution in the Docket No. R94-1 remand opinion and the two opinions in Docket No. R94-1 as giving rise to great confusion as to what constitutes an "established" methodology. The amount of time, paper, and effort that has been devoted to this essentially silly exercise is greatly disproportionate to its triviality.

corrected a few minor technical errors in its Further Opinion in Docket No. R94-1 cannot seriously be magnified into a due process error.⁸

While postal management may prefer a different attribution technique, the fact of the matter is that the Commission has thoroughly and carefully considered the views of the Postal Service on this subject, and found them deficient under the Act. Indeed, the Postal Service's continued reluctance to accept the Commission's judgment as to the proper way to attribute this category of costs is tantamount to a direct challenge to the Commission's jurisdiction.

The Commission's single subclass stop cost attribution methodology is soundly based on record evidence and solid economics. The Commission repeatedly has determined that it is the best means of satisfying the statutory requirement that rates cover attributable costs.⁹ For these

⁸ The Postal Service brief contends that supporters of the Commission's sound cost attribution methodology take inconsistent positions as to when a cost difference is trivial. *USPS Initial Brief* at 39. The argument at this point in the USPS's brief is quite opaque, and seems irrelevant at best, as the Service's quotation from the testimony of MMA witness Bentley seems to address a different point altogether. In any event, if two different costing methodologies arrive at close to the same result for a particular service, then the Commission may have a greater degree of assurance that the result is reliable. With respect to city carrier access costs, the single subclass stop and volume variability analyses can be expected to arrive at similar results if, for some reason, no economies of scale or scope are present.

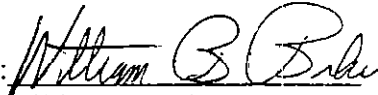
⁹ 39 U.S.C. § 3622(b)(3). In contrast, Congress classified the other ratemaking criteria as merely factors, not requirements.

reasons, the Postal Service's contention that "no evidentiary foundation for use of the Commission's costs in this proceeding"¹⁰ exists is simply incorrect.

Respectfully submitted,

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Certificate of Service

I hereby certify that I have this 21st day of January, 1997, served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the rules of practice and the special rule in effect in this proceeding.


William B. Baker

¹⁰

USPS Initial Brief at 40.